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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,094

10/17/2003

Daniel Klees

210-031

9102

7590 08/01/2007  
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EXAMINER
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RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
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2856

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/687,094

Applicant(s)

KLEES ET AL.

Examiner

Robert R. Raavis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claims 10,11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claim 10, there is no support for two elements in "parallel" (claim 10), where one of the those two elements is connected to the same "drain pipe" (line 3 from last of claim 9) with a third unit (either flow meter or cart of claim 9). In particular, please look at Figure 1 which illustrates two units 5/7 and 21 in parallel, and note that neither of units is connected to an a third unit with the same "drain pipe" (line 3 from last of claim 9) 23.

As to claim 11, there is no support for two elements in "series" (claim 11), where one of the those two elements is connected to the same "drain pipe" (line 3 from last of claim 9) with a third unit (either flow meter or cart of claim 9). In particular, please look at Figure 1 which illustrates two units 5/7 and 21 connected in series, and note that neither of units is connected to an a third unit with the same "drain pipe" (line 3 from last of claim 9) 23.

As to claim 12, there is no support for two elements that are connected to the same "drain pipe" (line 3 from last of claim 9) 23, with one of those units connected a "device from measuring a quantity" (claim 12) (i.e. "weigh tank" of claim 13). In particular, please look at Figure 1 which illustrates that *only one* ("meter 5 or

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alternatively a flow meter calibration cart 7", italics added, lines 13-14 of p. 8 of specification) unit (5 or 7) is connected to the weigh tank 29 and drain 23.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 15, this claim calls for "a source", "a drain" and "a flow meter calibration rig" (i.e. three different elements). However, the disclosure states that the "calibration rig" (line 25 of p. 5) "comprises a source 1" (line 26 of p. 5). Thus, the claim is not consistent with the originally filed disclosure. Contrast lines 3-6 of claim 15 with:

--providing a flow meter calibration rig comprising a source of pure sterilized water and a drain;

mounting a flow meter or a flow meter calibration cart on the flow meter calibration rig;--.

Does Applicant really intend to limit the method to include a rig (which as disclosed, though not claimed, includes a source and drain), and a (different) source and (different) drain that are in addition to the rig? If so, where is there support for a system comprising a rig (as illustrated by the entire figure) and second source and second drain?

As to claim 14, please insert a comma after "quantity of water" (line 3).

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Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Adney et al.

Adney et al teach (col. 9, lines 33-48) calibrating a flow meter by passing liquid there through, and comparing the output of the meter with a target amount, and determining a correction factor. The fluid employed is "distilled water" (col. 11, line 36). The meter is mounted to the fluid system for calibration. The "distilled" water is inherently provided from a source, and water that is employed in the calibration will ultimately be disgarded.

Claims 9,14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Adney et al.

Adney et al teach (Figure) a source (DISTILLED WATER, or tank 1) of distilled water; 5 gallon "waste" (italics added, col. 15, line 59) bucket 3; flow meter FI fluidly connected to the source and bucket when water is flowing; 2 liter flask 2 on a scale 19 operatively connected to the bucket; and a waste pipe (from valve 10 to bucket 3) fluidly connected to the flow meter and indirectly connected to the flask/scale via valve 10, the waste pipe guiding liquid from the flow meter to the waste bucket 3.

Adney does not call the 2 liter flask on the scale 19 a cart.

As to claim 9, either a 2 liter flask 2 is movable, and thus is as much a cart as that claimed, or the 2 liter flask 2 and scale (sized to measure 2 liters of liquid) are small, and thus are inherently portable, suggestive of a as much a cart a called for by Applicant's claim 9. In the alternative, it would have been obvious to transport a flask or flask/scale to Adney's system to permit for measuring, suggestive of a portable flask or

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flask/scale. Note that Applicant's disclosure states that "carts are mobile units", never describing in what manner they might be mobile, suggestive that elements that are mobile are carts.

As to claim 14, either the tank 1 or REFERENCE CONTAINER is between the DISTILLED WATER line and flow meter FI.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 5:30am to 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Raevis*

*RAEVIS*